

Nos. 22-1972, 22-1973, 22-1975, 22-1976

**United States Court of Appeals
for the Federal Circuit**

MASIMO CORPORATION,

Appellant,

v.

APPLE INC.,

Appellee.

APPEAL FROM THE UNITED STATES PATENT AND TRADEMARK OFFICE,
PATENT TRIAL AND APPEAL BOARD IN NOS. IPR2020-01713, IPR2020-01716,
IPR2020-01733, IPR2020-01737

**APPLE'S UNOPPOSED MOTION FOR 14-DAY EXTENSION
OF TIME TO FILE RESPONSE BRIEF**

Lauren A. Degnan
Christopher Dryer
W. Karl Renner
Adi A. Williams
FISH & RICHARDSON P.C.
1000 Maine Ave., Suite 1000
Washington, DC 20024
Tel: (202) 783-5070
degnan@fr.com

Ashley Bolt
FISH & RICHARDSON P.C.
1180 Peachtree Street NE
21st Floor
Atlanta, GA 30309
Tel: (404) 892-5005

January 27, 2023

Attorneys for Appellee Apple Inc.

CERTIFICATE OF INTEREST

Counsel for Appellee Apple Inc. (“Apple”) certifies the following:

1. Provide the full names of all entities represented by undersigned counsel in this case.

Apple Inc.

2. Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.

Apple Inc.

3. Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.

None

4. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

**Fish & Richardson P.C.: Andrew B. Patrick, Usman Khan,
Hyun Jin In, Daniel D. Smith, Robert J. Devoto**

5. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court’s decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

***Masimo Corporation, et al. v. Apple Inc.,*
Case No. 8:20-cv-00048 (C.D. Cal.)**

***Certain Light-Based Physiological Measurement Devices and Components
Thereof*
Case No. 337-TA-1276 (ITC)**

***Masimo Corp. v. Apple Inc.,*
Case Nos. 22-1631, -1632, -1633, -1634, -1635, -1636, -1637, -1638
(Fed. Cir.)**

Masimo Corp. v. Apple Inc.,

Case Nos. 22-2069, -2070, -2071, -2072 (Fed. Cir.)

6. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None

Dated: January 27, 2023

/s/ Christopher Dryer

Christopher Dryer

**APPLE’S UNOPPOSED MOTION FOR 14-DAY
EXTENSION OF TIME TO FILE RESPONSE BRIEF**

Pursuant to Federal Circuit Rule 26(b), Appellee Apple Inc. (“Apple”) respectfully requests an extension of time to file its response brief. This brief is currently due on February 6, 2023. Apple seeks a 14-day extension to February 20, 2023. Because February 20, 2023 is a federal holiday, Apple’s brief would be due on February 21, 2023. This request is Apple’s second extension request in these consolidated appeals. Apple’s counsel has notified counsel for Appellant Masimo Corporation (“Masimo”) of its intent to seek an extension, and Masimo’s counsel had no objection to the requested extension.

Apple has good cause to request this extension. As described in the attached declaration of its counsel, Mr. Christopher Dryer, counsel for Apple have professional commitments that hinder their ability to prepare a brief by the current deadline, including commitments that were not known at the time Apple previously sought an extension. (*See* Dryer Decl. ¶ 3.)

For the foregoing reasons, Apple respectfully requests a 14-day extension, to February 21, 2023, to file its response brief.

Dated: January 27, 2023

Respectfully submitted,

/s/ Christopher Dryer

Lauren A. Degnan

Christopher Dryer

W. Karl Renner

Adi A. Williams

FISH & RICHARDSON P.C.

1000 Maine Ave., Suite 1000

Washington, DC 20024

Telephone: (202) 783-5070

Ashley Bolt

FISH & RICHARDSON P.C.

1180 Peachtree Street NE, 21st Floor

Atlanta, GA 30309

Telephone: (404) 592-5005

Attorneys for Appellee Apple Inc.

**DECLARATION IN SUPPORT OF UNOPPOSED MOTION FOR
14-DAY EXTENSION OF TIME TO FILE APPLE’S RESPONSE BRIEF**

I, Christopher Dryer, declare as follows:

1. I am a principal with Fish & Richardson P.C. in its Washington, DC office. I am counsel for Appellee Apple Inc. (“Apple”) in this appeal.

2. I submit this declaration in accordance with Federal Circuit Rule 26(b)(1) and in support of Apple’s motion for a 14-day extension of time to file its response brief.

3. Good cause exists for the extension. Counsel for Apple have significant professional commitments that hinder their ability to prepare a brief by the current deadline, including new commitments that were unknown at the time Apple previously sought an extension in these consolidated appeals. They include commitments in matters before this Court and in other jurisdictions, including the following:

- *Netlist, Inc. v. Samsung Electronics Co.*, No. 2:21-cv-463-JRG (E.D. Tex.)
 - Summary judgment motions, *Daubert* motions, and motions to strike due February 3, 2023
- *Netlist, Inc. v. Samsung Electronics Co.*, No. 2:22-cv-293-JRG (E.D. Tex.)
 - Opposition to motion to amend complaint due February 3, 2023 (request for 7-day extension to February 10, 2023 currently pending)
- *Apple Inc. v. Masimo Corp.*, No. 22-1890 (Fed. Cir.)
 - Reply Brief due February 8, 2023
- *Apple Inc. v. Masimo Corp.*, No. 22-1891 (Fed. Cir.)
 - Reply Brief due February 8, 2023

- *Apple Inc. v. Masimo Corp.*, Nos. 22-2069, -2070 -2071, -2072 (Fed. Cir.)
 - Response Brief due February 21, 2023
- 4. Appellant Masimo Corporation does not oppose this motion.

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct. Executed on January 27, 2023, in Washington, D.C.

/s/ Christopher Dryer
Christopher Dryer

CERTIFICATE OF SERVICE AND FILING

I certify that on January 27, 2023, I electronically filed the foregoing **MOTION FOR 14-DAY EXTENSION OF TIME TO FILE RESPONSE BRIEF** of appellee using the Court's CM/ECF filing system. Counsel for appellant were electronically served by and through the Court's CM/ECF filing system per Fed. R. App. P. 25 and Fed. Cir. R. 25(e).

*/s/ Christopher Dryer*_____

Christopher Dryer

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A). The motion contains 188 words, excluding the parts of the motion authorized by Fed. R. App. P. 27(a)(2)(B). This motion has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Times New Roman, 14 Point.

Dated: January 27, 2023

/s/ Christopher Dryer
Christopher Dryer